

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
ORDER

Application 23319 Permit 15967 License

**ORDER APPROVING CHANGE TO THE PLACE OF USE, A NEW DEVELOPMENT
SCHEDULE, ADDING MAXIMUM ANNUAL AMOUNT TERM, ADDING A FLOW
MEASURING DEVICE TERM, ADDING AN ENDANGERED SPECIES TERM, AND
AMENDING THE PERMIT**

WHEREAS:

1. Permit 15967 was issued to Ocean Investment, Limited Partnership on February 2, 1970.
2. A petition for an extension of time in which to develop the project and apply the water to the proposed use was filed with the State Water Resources Control Board on August 17, 1975. Public notice was circulated on February 26, 1976.
3. Division of Water Right staff inspected the permittee's project on August 18, 1980 and advised permittee of the necessity for a term for an in-line flow-measuring device and to file a petition to change the place of use to include the Gleason Beach Subdivision located on the westside of State Highway 1.
4. Petition to change the place of use was filed with the State Water Resources Control Board on July 24, 1980. Public notice was circulated on September 8, 1981.
5. The Superior Court of Sonoma County granted receivership of permittee operated Sereno Del Mar Water Company to the Russian River Utility Company on June 21, 1995, under Case No. 210926. Subsequently, the holder of Permit 15967 was assigned under the Sereno Del Mar Water Company.
6. Permittee's point of diversion and place of use is common for both this permit (Permit 15967) and Permit 15285 (Application 21991). A maximum annual amount taken under both water rights was proposed and accepted based on the rate and season of diversion allowed under the permits.
7. The permittee has proceeded with diligence and good cause has been shown for said extension of time.
8. The State Water Resources Control Board has determined that the petitioned change and the diversion of the license does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
9. Fish or wildlife species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

10. Permit condition pertaining to continuing authority of the State Water Resources Control Board should be updated to conform to Section 780 (a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Paragraph 3 of the Permit be amended to read as follows:

Portion of the Bodega Rancho within the W $\frac{1}{2}$ of projected Section 3, the W $\frac{1}{4}$ of E $\frac{1}{2}$ of projected Section 3, the E $\frac{1}{4}$ of E $\frac{1}{2}$ of projected Section 4, NE $\frac{1}{4}$ of projected Section 9, N $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 9, the N $\frac{1}{2}$ of projected Section 10, and the W $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 11, T6N, R11W, MDB&M. The Gleason Beach Subdivision located with the E $\frac{1}{2}$ of SW $\frac{1}{4}$ of projected Section 4, T6N, R11W, MDB&M as shown on maps on file with the State Water Resources Control Board.

2. Paragraph 5 of the Permit be amended to read as follows:

The water appropriated shall be limited to quantity which can be beneficially used and shall not exceed 0.078 cubic foot per second to be diverted from June 1 to October 31 of each year. The maximum amount diverted under this permit shall not exceed 23 acre-feet of each year. The maximum annual amount diverted under this permit and Permit 15285 shall not exceed 123 acre-feet per year.

3. A new development schedule under Paragraph 8 of the Permit is approved as follows:

Complete application of the water to the proposed use shall be made by December 31, 2006. (0000009)

4. The addition of paragraph 14 to read as:

Permittee shall install an inline flow meter capable of measuring the cumulative total volume of water pumped. The meter shall be read weekly and reading shall be furnished to the State Water Resources Control Board with the annual progress reports.

5. The addition of Paragraph 15 to read as:

This permit does not authorize any act which results in the taking of a threaten or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "taking" will result from any act authorized under this water right, the permittee shall obtain an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit. (0000014)

6. A continuing authority condition shall be updated and read as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust, all rights and privileges under this permit and under

any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust. (0000012)

Dated: **JANUARY 29 1999**


Harry M. Schueller, Chief
Division of Water Rights

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT No. 15967

Application 23319 of Ocean Investments, Limited Partnership
920 Mendocino Avenue, Santa Rosa, California

filed on July 29, 1969, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Scotty Creek	Pacific Ocean

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
N 1,700' & E 3,250' from USGS B.M. 26 as shown on "Duncan Mills" quadrangle	NW ¼ of SW ¼	3	6N	11W	MD
	¼ of ¼				
	¼ of ¼				
	¼ of ¼				
	¼ of ¼				
	¼ of ¼				

County of Sonoma

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
Domestic	W½ & W½ of E½	3	6N	11W	MD	
	E½ of E½	4				
	E½	9				
	N½	10				

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used, and shall not exceed 0.078 cubic foot per second by direct diversion to be diverted from about June 1 to about October 31 of each year. The total amount of water appropriated under this permit shall not exceed 25 acre-feet annually.

(0000005)

6. The maximum quantity herein stated may be reduced in the license if investigation warrants.

(0000006)

~~Actual construction work shall begin on or before -~~ and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked.

7. Said construction work shall be completed on or before December 1, 1972.

(0000008)

8. Complete application of the water to the proposed use shall be made on or before December 1, 1973.

(0000009)

9. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Resources Control Board until license is issued.

(0000010)

10. All rights and privileges under this permit including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water and to carry out legally established water quality objectives.

(0000012)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board, if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

13. Upon a judicial determination that the place of use under this permit or a portion thereof is entitled to the use of water by riparian right, the right so determined and the right acquired under this permit shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

(0000021)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: FEB 9 1970

STATE WATER RESOURCES CONTROL BOARD

K.L. Woodward
Chief, Division of Water Rights